

## HOUSE BILL NO. 408

INTRODUCED BY E. BUTCHER

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AMENDMENTS TO ARTICLE VIII, SECTION 1, AND ARTICLE VIII, SECTION 16, OF THE MONTANA CONSTITUTION TO GENERALLY REVISE INCOME AND PROPERTY TAXATION AND ESTABLISH A RETAIL SALES AND USE TAX; PROVIDING FOR REBATES OF EXCESS STATE REVENUE; PROVIDING THAT ONLY STATE RESIDENTS PAY INCOME TAX AND THAT ANY PERSON PAYING INCOME TAX MAY ELECT NOT TO PAY PROPERTY TAXES UNDER CERTAIN CIRCUMSTANCES; ESTABLISHING A RETAIL SALES AND USE TAX WITH A BASE REFUNDABLE AMOUNT; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Article VIII, section 1, of The Constitution of the State of Montana is amended to read:

**"Section 1. Tax purposes -- rebate of excess tax revenue -- applicability of tax type.** (1) Taxes shall be levied by general laws for public purposes.

(2) Each fiscal year, revenue that is received by the state, other than that received from the government of the United States, that is in excess of the amount budgeted by the legislature shall be rebated on a per capita basis to individuals who filed income tax reports for the prior calendar year. The rebate shall be made in the following fiscal year in the manner determined by law.

(3) Retail sales of goods, property, and businesses are subject to the sales tax or use tax as provided in Article VIII, section 16.

(4) (a) The following may be exempted at the owner's request from property taxes under the terms specified in this section, but may not be exempted from special assessments or voted bond obligations:

(i) property owned by an individual and all members of the individual's family filing individually or jointly for each year that the individual files Montana income tax returns;

(ii) property owned by a business organization with its principal headquarters located in Montana, including corporations but not including entities under subsection (4)(a)(iii), for each year that the owners are individuals and:

(A) if there are less than 100 owners, all the owners pay or are liable for the payment of Montana

1 income taxes; or

2 (B) if there are 100 or more owners, the owners of a majority of shares of stock pay or are liable for the  
3 payment of Montana income taxes; and

4 (iii) property within a trust, partnership, or similar legal entity for each year that all the trustees, partners,  
5 or similar members of the entity file Montana income tax returns.

6 (b) Property leased to a person or entity that is not subject to income taxes is not exempt from property  
7 taxes under the provisions of subsection (4)(a).

8 (c) The provisions of Article VIII, sections 3 and 4, apply only to property and property taxpayers subject  
9 to property taxes.

10 (5) Only individuals claiming legal residency in the state are subject to taxation of income."  
11

12 **Section 2.** Article VIII, section 16, of The Constitution of the State of Montana is amended to read:

13 **"Section 16. ~~Limitation on Retail sales of goods subject to sales tax or use tax -- limitation on~~**  
14 **~~rates.~~** (1) (a) Retail sales of goods and the use of goods purchased in another state are subject to a sales tax  
15 or use tax at a rate not to exceed that specified in this section.

16 (b) The wholesale of goods to be sold by a purchaser for resale and goods sold to be used directly as  
17 a component of finished manufactured goods are not retail sales.

18 (c) Corporate stocks, bonds, security, insurance premiums, wages, salaries, and similar financial  
19 documents or transactions are not goods and are not subject to any type of transaction tax.

20 (d) Sales to entities that may not be taxed under the constitution or laws of the United States are not  
21 subject to the sales tax or use tax.

22 (2) The legislature shall establish a rebate of sales tax or use tax paid in an annualized amount equal  
23 to not less than the amount of sales tax or use tax that would have been collected on purchases equal to not  
24 less than 15% of the per capita personal income for the state in the year preceding the income tax year for which  
25 the rebate is claimed. The rebate shall be administered through the income tax system. The rebate may consist  
26 of a refundable amount for eligible claimants who are legal residents of the state and who do not have taxable  
27 income or who have an income tax liability that is less than the allowable rebate.

28 (3) The rate of a general statewide sales tax or use tax may not exceed 4%."  
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30 **NEW SECTION.** **Section 3. Effective date.** If approved by the electorate, these amendments are

1 effective January 1, 2007.

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3 **NEW SECTION. Section 4. Submission to electorate.** This amendment shall be submitted to the  
4 qualified electors of Montana at the general election to be held in November 2006 by printing on the ballot the  
5 full title of this act and the following:

6       []       FOR revising taxation by limiting income taxes to residents, exempting income taxpayers from  
7               property taxes, establishing a sales tax, and providing for certain rebates.

8       []       AGAINST revising taxation by limiting income taxes to residents, exempting income taxpayers  
9               from property taxes, establishing a sales tax, and providing for certain rebates.

10                               - END -